

If equipment is leased or rented by a self-assessing purchaser from a delivering supplier and that equipment is necessary for furnishing, supplying, or selling electricity, the rental or lease charges for that equipment is part of the purchase price of electricity subject to Electricity Excise Tax liability. See 35 ILCS 640/2-3(d). (This is a GIL).

May 17, 1999

Dear Xxxxx:

This letter is in response to your letter dated April 23, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are an Electricity Excise Tax self assessor ####. When we applied for this ability we owned transformation equipment at the West Plant and we rented transformation equipment at the East Plant. Both substations are for our sole use.

The West Plant substation was excluded when we applied to be self accessed. The East Plant Substation was excluded through deduction from that account number since it was included as rental under that power billing account number.

COMPANY is now providing us with a combined bill for the East and West Plants. Under agreement with them we are now also renting the West Plant Substation. Both substations are our sole finical responsibility. If it breaks BUSINESS pays COMPANY labor and material to fix the substation. This was done because we no longer have equipment nor trained personnel for high voltage substation work.

At this point BUSINESS is requesting that you provide a 'Letter of Ruling' that these two substations are not COMPANY's distribution equipment covered under the excise tax cost of power.

Your help in this matter is appreciated.

We cannot provide you with a specific answer to your question in the context of a General Information Letter. However, the general information listed below may assist you in answering your questions.

Electricity Excise Tax is imposed on self-assessing purchasers at the rate of 5.1% of the self-assessing purchaser's purchase price for all electricity

distributed, supplied, furnished, sold, transmitted and delivered to the self-assessing purchaser in a month. See subsection (a) of Section 2-4 the Electricity Excise Tax Law. The definition of "purchase price" under the Electricity Excise Tax Law is set out in subsection (d) of Section 2-3, 35 ILCS 640/2-3(d), as follows:

(d) "Purchase price" means the consideration paid for the distribution, supply, furnishing, sale, transmission or delivery of electricity to a person for non-residential use or consumption (and for both residential and non-residential use or consumption in the case of electricity purchased from a municipal system or electric cooperative described in subsection (b) of Section 2-4) and not for resale, and for all services directly related to the production, transmission or distribution of electricity distributed, supplied, furnished, sold, transmitted or delivered for non-residential use or consumption, and includes transition charges imposed in accordance with Article XVI of the Public Utilities Act and instrument funding charges imposed in accordance with Article XVIII of the Public Utilities Act, as well as cash, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expense whatsoever. However, "purchase price" shall not include consideration paid for:

- (i) any charge for a dishonored check;
- (ii) any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;
- (iii) any charge for reconnection of service or for replacement or relocation of facilities;
- (iv) any advance or contribution in aid of construction;
- (v) repair, inspection or servicing of equipment located on customer premises;
- (vi) leasing or rental of equipment, the leasing or rental of which is not necessary to furnishing, supplying or selling electricity;
- (vii) any purchase by a purchaser if the supplier is by federal or State constitution, treaty, convention, statute or court decision from recovering the related tax liability from such purchaser; and
- (viii) any amounts added to purchasers' bills because of charges made pursuant to the tax imposed by this Law.

In case credit is extended, the amount thereof shall be included only as and when payments are made.

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"Purchase price" shall not include consideration received from business enterprises certified under Section 9-222.1 of the Public Utilities Act, as amended, to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs."

If equipment is leased or rented by a self-assessing purchaser from a delivering supplier and that equipment is necessary for furnishing, supplying, or selling electricity, the rental or lease charges for that equipment is part of the purchase price of electricity subject to Electricity Excise Tax liability. Please note that if charges are made for the repair, inspection, or servicing of equipment located on the customer's premises, those charges are not included as part of the purchase price of electricity subject to Electricity Excise Tax liability.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.